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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Christian Volf Olgaard

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23418 7590 05/27/2009  
VEDDER PRICE P.C.  
222 N. LASALLE STREET  
CHICAGO, IL 60601

EXAMINER

CHRISTENSEN, SCOTT B

ART UNIT

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MAIL DATE

DELIVERY MODE

05/27/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### **ADVISORY ACTION**

1. This Advisory Action is in regards to the most recent papers filed on 5/11/2009.

### ***Response to Arguments***

2. Applicant's arguments filed 5/11/2009 have been fully considered but they are not persuasive.

3. On pages 5-6, Applicant argues the combination of Starnes with Kobayashi, arguing that a person of ordinary skill in the art would not have seen the content negotiation of Starnes as beneficial in the system of Kobayashi "given the stark difference between the express goals and subject matter of Kobayashi and Starnes."

First, it is noted that a person of ordinary skill in the networking art would have been aware of content negotiation, such as that in Starnes. In fact, the relied upon subject matter is found within the background of Starnes, and is described as being "known and described in the HTTP, version 1.1." (Starnes: Column 2, lines 23-24). Accordingly, it is clear that evidence that a person of ordinary skill in the art who was aware of Kobayashi would be aware of content negotiation, such as that in Starnes, and further within HTTP version 1.1.

Further, it is well known in the art that content negotiation is utilized for purposes such as bandwidth limitations (which is a concern in wireless communications, such as that of Kobayashi) and differences in displays (which there is in Kobayashi, as a phone and a computer have different display capabilities and dimensions).

Art Unit: 2444

Further, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

4. Accordingly, after careful consideration of Applicant's arguments, the rejection under 35 USC 103 has been maintained.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Christensen whose telephone number is (571)270-1144. The examiner can normally be reached on Monday through Thursday 6:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. C./  
Examiner, Art Unit 2444  
/William C. Vaughn, Jr./  
Supervisory Patent Examiner, Art Unit 2444